

### **REMARKS/ARGUMENTS**

Claims 1-25 were presented for examination. Claims 13-22 have been withdrawn from consideration leaving claims 1-12 and 23-25 pending in this application. In an Official Office Action dated August 29, 2007, claims 1-12 and 23-25 were rejected. The Applicant thanks the Examiner for his consideration and addresses the Examiner's comments concerning the claims pending in this application below.

Applicant herein amends claims 1 and 23 and respectfully traverses the Examiner's prior rejections. Claims 13-22 are cancelled without prejudice and no new claims are added. These changes are believed not to introduce new matter, and their entry is respectfully requested. The claims have been amended to expedite the prosecution and issuance of the application. In making this amendment, the Applicant has not and is not narrowing the scope of the protection to which the Applicant considers the claimed invention to be entitled and does not concede, directly or by implication, that the subject matter of such claims was in fact disclosed or taught by the cited prior art. Rather, the Applicant reserves the right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and withdraw them.

### **Restriction Requirement**

A restriction requirement has been placed on the present invention regarding group I, claims 1-12 and 23-25 and group II, claims 13-22 as being sub-combination usable together in a single combination. During a telephone conversation with the Examiner on August 21, 2007, group I, claims 1-12 and 23-

25, were provisionally elected. The Applicant affirms this election thus removing claims 13-22 from consideration as being drawn to a non-elected invention. The inventorship of the remaining claims remains correct.

### **35 U.S.C. §112 Rejection of Claims**

Claims 1-12 and 23-25 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement and the enablement requirement. Specifically, the rejection contends that the originally filed specification fails to adequately describe and enable the computing of at least one other correlated data set indicative of another golf club and associated representative user range based upon a relationship in said first correlated data set, or, computing at least suggested club type and an associated representative user can be for said at least one other club type.

Claims 1-12 and 23-25 were also rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Again, the rejection cites that the invention is not distinctly claimed in that it is unclear as to a process, procedure, table, etc. used to compute one other/another golf club type and associated range.

The Applicant traverses these rejections. The specification on page 6, lines 1-28 describes, and enables one skilled in the art to understand, the process by which another golf club can be computed based on a relationship from a first correlated data set. As is pointed out in the rejection, a patent need not teach, and preferably omits, what is well known in the art. See *In re Buchner*, 929 F.2d 660, 661 (Fed. Cir. 1991). Calculating a suggested club for a given distance is well known. A simple Google search finds several websites

dedicated and offering detailed explanations of how the distance for each club is determined.

As is outlined in the specification, the key factor in determining what type of club would equate to a certain distance is an individual player's performance. No one would argue that a professional golfer and a weekend amateur would hit a golf ball the same distance using the same equipment; but, given examples of each player's performance, a range for each other club can be thereby determined. While the loft and club angles vary among manufacturers, such data can be easily correlated by the user input as to what type of club is being used in a particular set of clubs. The average shot is not perfect; in fact even good players rarely hit perfect shots. Good players have a wider range for each club and hit fewer poor shots, but the principles governing range determination for each club apply equally to all players. The greatest distance factors are mechanics and club head speed which results in a demonstrated distance for a particular club. Once that is known for one or more clubs, the determination of relative ranges for the other clubs in a set can be determined.

These ranges can be found by a look-up table, a simple algorithm or similar technique. This step can be accomplished by a myriad of means; all of which are well known to one skilled in the art. For example, a consumer walking into any reasonable commercial establishment selling golf clubs, or a golf professional at a local golf club, would be able to receive from such a professional a reasonable estimate of distance for each club once given general information about the user and a representative distance of one or more clubs. Thus, if the user can hit a certain type of driver 200 yards, one skilled in the art would easily be able to provide the user with a spectrum of ranges for the remaining clubs. These ranges can be fine tuned by additional information but the process is nonetheless straightforward and it would be reasonable for one

skilled in the art to make and use this aspect of the invention based on the disclosure provided.

The Applicant, therefore, respectfully traverses the rejections under 35 U.S.C. § 112 first and second paragraphs as being without support and that one skilled in the art would find the specifications both descriptive and enabling and that the subject matter which the Applicant regards as the invention is clearly and distinctly claimed. Reconsideration is requested.

### **Rejection of the Claims under 35 U.S.C. §102(b)**

Claim 23 was rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,059,672 by Zeiner-Gundersen ("Zeiner-Gundersen") and U.S. Patent No. 5,294,110 by Jenkins ("Jenkins"). Applicant respectfully traverses these rejections in light of the following remarks.

MPEP §2131 provides:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir.1987). "The identical invention must be shown in as complete detail as contained in the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

The claims as currently amended recite features lacking in the applied references. For example, independent claim 1 recites, among other things, "determining a range to a selected point on a golf course with said laser rangefinding instrument." Both Zeiner-Gundersen and Jenkins teach distance

determination to the pin via optical techniques by using the comparison of the size of the flag (of known heights) to an optical scale. Neither of the cited pieces of art teach the use of a laser rangefinder to ascertain the precise distance between the user's location (the ball) and the flag. Reconsideration is requested.

### **35 U.S.C. §103(a) Obviousness Rejection of Claims**

Claims 1-7, 10-12 and 24-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Zeiner-Gundersen in view of U.S. Patent No. 3,059,926 by Johnstone ("Johnstone") or U.S. Patent No. 5,283,732 by Mauritz ("Mauritz"). Claims 8-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zeiner-Gundersen in view of Johnstone or Mauritz in further view of Jenkins. Claims 1-5, 8-12, and 24-25 were rejected under 35 U.S.C § 103(a) as being unpatentable over Jenkins in view of Johnstone or Mauritz. Claims 6 and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Jenkins in view of Johnstone or Mauritz in further view of Zeiner-Gundersen. Applicant respectfully traverses these rejections in light of the aforementioned and following remarks and respectfully requests reconsideration.

Neither Zeiner-Gundersen nor Jenkins discuss, suggest, or teach the use of, or a device containing, a laser rangefinder capable of determining the distance from a point on the fairway to the pin on a hole of golf. Zeiner-Gundersen teaches in Column 5, lines 18-25 that the distance along the fairway that is used to determine the club selection is based on an optical comparison technique. Zeiner-Gundersen states that distance is determined based on simple geometry by fitting the height against a displayed curvature. This technique is commonly referred to as mil-radian sighting. It is well known that based on small angle theory the distance to an object of known size can be determined based on angular displacement. A mil-radian is defined a 1/1000<sup>th</sup> of

a radian. By measuring the height or width of a known (or approximately known target size) in mil-radians using a display, the target distance can be calculated as follows.  $R = \text{range in meters}$ ,  $H = \text{target size in meters}$ ,  $M = \text{mil-radians of image size}$ :  $R = 1000 * H / M$ . This simple approach is used in Zeiner-Gundersen and in Jenkins. (See Jenkins, Column 6, lines 55-59.)

Clearly a significant limitation to this technique is the requirement to see the flag. Similarly it assumes that the flag is always the same height and that it is of a known value. Lastly the accuracy of the optical sightings vary widely and is a function of the expertise of the user and their ability to superimpose the scale over the target. The present invention provides an accurate distance measurement to any position on the golf course. Clearly many holes exist in which the flag is not visible from a variety of locations. The rangefinders disclosed in Zeiner-Gundersen and Jenkins have no applicability in such scenarios while the present invention is completely operable.

Zeiner-Gundersen does discuss using a laser scanning device, but limits its capability to that of scanning an area of the green to determine curvature. Zeiner-Gundersen does not discuss employing a laser rangefinder to ascertain distance to the a point on the golf course.

Furthermore, Johnstone and Mauritz fail to resolve the deficiencies of Zeiner-Gundersen and Jenkins noted above as no mention of a laser is provided. The improvement of the prior art found in the present invention resolve the inadequacies found in Zeiner-Gundersen and Jenkins. Accordingly, the Applicant deems claims 1-12 and 24-25 patentable over various combinations of the cited art. Reconsideration is respectfully requested.


### Conclusion

In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicant's attorney at the telephone number listed below.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

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